THE SUCCESSION CERTIFICATE REGULATION, 1901.

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SCHEDULE.—Forms of Certificate and Extended Certificate.

REGULATION No. VII OF 1901.

(PASSED ON THE 5TH DAY OF OCTOBER 1901.)

A Regulation to Facilitate the Collection of Debts on Successions and Afford Protection to Parties paying debts to the Representatives of Deceased Persons.

Whereas it is expedient to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons: Her Highness the Maharani-Regent is pleased to enact as follows: —

Title, commencement, extent and application.

1. (1) This Regulation may be called the Succession Certificate Regulation, 1901 ;

(2) It shall come into force on the first day of November 1901 ; and

(3) It extends to the whole of Mysore ;

(4) But a certificate shall not be granted thereunder with respect to any debt or security to which a right can be established by probate or letters of administration under the Indian Succession Act, 1865.

Repeal.

2. (1) Act XXVII of 1860 (*An Act for facilitating the collection of Debts on successions, and for the security of parties paying debts to the representatives of deceased persons)* as extended to Mysore by Notification of the Government of India, Foreign Department, No. 16, Judicial, dated the 15th January 1868, is hereby repealed.

(2) But nothing in this Regulation shall affect any certificate granted before the commencement of this Regulation under Act XXVII of 1860.

(3) Any enactment except this Regulation or any document, referring to Act XXVII of 1860, shall, so far as may be, be construed to refer to this Regulation or to the corresponding portion thereof.

Definitions.

3. In this Regulation, unless there is something repugnant in the subject or context,—

(1) "District Court," subject to the other provisions of this Regulation and to the provisions of section 12 of the Mysore Chief Court Regulation, 1884, and of any other like enactment for the time being in force, means a Court presided over by a District Judge ; and

(2) "Security" means—

(*a*) any promissory note, debenture, stock or other security of the Government of Mysore;

(*b*) any stock or debenture of, or share in, a company or other incorporated institution;

(*c*) any debenture or other security for money issued by, or on behalf of, a local authority;

(*d*) any other security which the Government of Mysore may, by notification in the official Gazette, declare to be a security for the purposes of this Regulation.

Proof of representative title a condition precedent to recovery, through the Courts, of debts from debtors of deceased persons.

4. (1) No Court shall—

(*a*) pass a decree against a debtor of a deceased person for payment of his debt to a person claiming to be entitled to the effects of the deceased person or to any part thereof, or

(*b*) proceed, upon an application of a person claiming to be so entitled, to execute against such a debtor a decree or order for the payment of his debt,

except on the production, by the person so claiming, of—

(i) a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased, or

(ii) a certificate granted under this Regulation or under section 36 or section 37 of the Administrator General's Act, 1874, and having the debt specified therein, or

(iii) a certificate granted under Act XXVII of 1860.

(2) The word "debt" in sub-section (1) includes any debt except rent, revenue or profits payable in respect of land used for agricultural purposes.

Court having jurisdiction to grant certificate.

5. The District Court within the jurisdiction of which the deceased ordinarily resided at the time of his death, or, if at that time he had no fixed place of residence, then within the jurisdiction of which any part of the property of the deceased may be found, may grant a certificate under this Regulation.

Application for certificate.

6. (1) Application for such a certificate must be made to the District Court by a petition signed and verified by or on behalf of the applicant in the manner prescribed by the Code of Civil Procedure for the signing and verification of a plaint by or on behalf of a plaintiff, and setting forth the following particulars, namely:—

(*a*) the time of the death of the deceased;

(*b*) the ordinary residence of the deceased at the time of his death and, if such residence was not within the local limits of the jurisdiction of the Court to which the application is made, then the property of the deceased within those limits;

(*c*) the family or other near relatives of the deceased and their respective residences;

(*d*) the right in which the petitioner claims;

(*e*) the absence of any impediment under section 1, sub-section (4), or under any other provision of this Regulation or any other enactment, to the grant of the certificate or to the validity thereof if it were granted; and

(*f*) the debts and securities in respect of which the certificate is applied for.

(2) If the petition contains any averment which the person verifying it knows or believes to be false, or does not believe to be true, that person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

Procedure on application.

7. (1) If the District Court is satisfied that there is ground for entertaining the application, it shall fix a day for the hearing thereof and cause notice of the application and of the day fixed for the hearing—

(*a*) to be served on any person to whom, in the opinion of the Court, special notice of the application should be given, and

(*b*) to be posted on some conspicuous part of the court-house and published in such other manner, if any, as the Court, subject to any rules made by the Chief Court in this behalf, thinks fit,

and upon the day fixed, or as soon thereafter as may be practicable, shall proceed to decide in a summary manner the right to the certificate.

(2) When the Court decides the right thereto to belong to the applicant, it shall make an order for the grant of the certificate to him.

(3) If the Court cannot decide the right to the certificate without determining questions of law or fact which seem to it to be too intricate and difficult for determination in a summary proceeding, it may nevertheless grant a certificate to the applicant if he appears to be the person having *prima facie* the best title thereto.

(4) When there are more applicants than one for a certificate and it appears to the Court that more than one of such applicants

are interested in the estate of the deceased, the Court may, in deciding to whom the certificate is to be granted, have regard to the extent of interest, and the fitness in other respects, of the applicants.

Contents of certificate.

8. When the District Court grants a certificate, it shall therein specify the debts and securities set forth in the application for the certificate and may thereby empower the person to whom the certificate is granted—

(*a*) to receive interest or dividends on, or

(*b*) to negotiate or transfer, or

(*c*) both to receive interest or dividends on, and to negotiate or transfer,

the securities or any of them.

Requisition of security from grantee of certificate.

9. (1) The District Court shall in any case in which it proposes to proceed under section 7, sub-section (3) or sub-section (4), and may, in any other case, require, as a condition precedent to the granting of a certificate, that the person to whom it proposes to make the grant shall give to the Judge of the Court, to ensure for the benefit of the Judge for the time being, a bond with one or more surety or sureties, or other sufficient security for rendering an account of debts and securities received by him and for indemnity of persons who may be entitled to the whole or any part of those debts and securities.

(2) The Court may, on application made by petition and on cause shown to its satisfaction, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Court thinks fit, assign the bond or other security to some proper person, and that person shall thereupon be entitled to sue thereon in his own name as if it had been originally given to him instead of to the Judge of the Court, and to recover, as trustee for all persons interested, such amount as may be recoverable thereunder.

Extension of certificate.

10. (1) A District Court may from time to time, on the application of the holder of a certificate under this Regulation, extend the certificate to any debt or security not originally specified therein, and every such extension shall have the same effect as if the debt or security to which the certificate is extended had been originally specified therein.

(2) Upon the extension of a certificate, powers with respect to the receiving of interest or dividends on, or the negotiation or transfer of, any security to which the certificate has been extended may be conferred, and a bond or further bond or other security for the purposes mentioned in the last foregoing section may be required, in the same manner as upon the original grant of a certificate.

11. Certificates shall be granted and extensions of certificates shall be made, as nearly as circumstances admit, in the forms set forth in the schedule. Forms of certificate and extended certificate.

12. Where a District Court has not conferred on the holder of a certificate any power with respect to a security specified in the certificate, or has only empowered him to receive interest or dividends on, or to negotiate or transfer, the security, the Court may, on application made by petition and on cause shown to its satisfaction, amend the certificate by conferring any of the powers mentioned in section 8, or by substituting any one for any other of those powers. Amendment of certificate in respect of powers as to securities.

13. For articles 10 and 11 of the first schedule to the Mysore Court-fees Regulation, 1900, the following shall be substituted, namely:— Amendment of Regulation III, 1900.

Number.		Proper fee.
"10. Probate of a will or letters of administration with or without will annexed.	If the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees.	Two per centum on such amount or value: provided that when, after the grant of a certificate under the Succession Certificate Regulation, 1901, or Act XXVII of 1860, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.
"11. Certificate under the Succession Certificate Regulation, 1901.	In any case ...	Two per centum on the amount or value of any debt or security specified in the Certificate under section 8 of the Regulation, and three per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Regulation. NOTE.—(1) The amount of a debt is its amount, including interest, on the day on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained. (2) Whether or not any power with respect to a security specified in a certificate has been conferred under the Regulation, and, where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation or transfer of, the security or for both purposes, the value of the security is its market-value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained.

Mode of collecting court-fees on certificates.

14. (1) Every application for a certificate or for the extension of a certificate must be accompanied by a deposit of a sum equal to the fee payable under the first schedule to the Mysore Court-fees Regulation, 1900, in respect of the certificate or extension applied for.

(2) If the application is allowed, the sum deposited by the applicant shall be expended under the direction of the Court, in the purchase of the stamp to be used for denoting the fee, payable as aforesaid.

(3) Any sum received under sub-section (1) and not expended under sub-section (2) shall be refunded to the person who deposited it.

Local extent of certificate.

15. A certificate under this Regulation shall have effect throughout the whole of Mysore.

Effect of certificate.

16. Subject to the provisions of this Regulation, the certificate of the District Court shall, with respect to the debts and securities specified therein, be conclusive as against the persons owing such debts or liable on such securities, and shall, notwithstanding any contravention of section 1, sub-section (4), or other defect, afford full indemnity to all such persons as regards all payments made, or dealings had, in good faith in respect of such debts or securities to or with the person to whom the certificate was granted.

Revocation of certificate.

17. A certificate granted under this Regulation may be revoked for any of the following causes, namely :—

(*a*) that the proceedings to obtain the certificate were defective in substance ;

(*b*) that the certificate was obtained fraudulently by the making of a false suggestion, or by the concealment from the Court of something material to the case ;

(*c*) that the certificate was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant thereof, though such allegation was made in ignorance or inadvertently ;

(*d*) that the certificate has become useless and inoperative through circumstances ;

(*e*) that a decree or order made by a competent Court in a suit or other proceeding with respect to effects comprising debts or securities specified in the certificate renders it proper that the certificate should be revoked.

Appeal.

18. (1) Subject to the other provisions of this Regulation, an appeal shall lie to the Chief Court from an order of a District Court granting, refusing or revoking a certificate under this Regulation, and the Chief Court may, if it thinks fit, by its order on the appeal, declare the person to whom the certificate should be granted and direct the District Court, on application being made therefor, to grant it accordingly, in supersession of the certificate, if any, already granted.

(2) An appeal under sub-section (1) must be preferred within the time allowed for an appeal under the Code of Civil Procedure.

(3) Subject to the provisions of sub-section (1) and of Chapters XLVI and XLVII of the Code of Civil Procedure as applied by section 647 of that Code, an order of a District Court under this Regulation shall be final.

Effect on certificate of previous certificate, probate or letters of administration

19. Save as provided by this Regulation, a certificate granted thereunder in respect of any of the effects of a deceased person shall be invalid if there has been a previous grant of such a certificate or of probate or letters of administration in respect of the estate of the deceased person and if such previous grant is in force.

Validation of certain payments made in good faith, to holder of invalid certificate.

20. Where a certificate under this Regulation has been superseded or is invalid by reason of the certificate having been revoked under section 17, or by reason of the grant of a certificate to a person named in an appellate order under section 18, or by reason of a certificate having been previously granted, or by reason of a grant of probate or letters of administration, or for any other cause, all payments made, or dealings had, as regards debts and securities specified in the superseded or invalid certificate, to or with the holder of that certificate in ignorance of its supersession or invalidity, shall be held good against claims under any other certificate or under the probate or letters of administration.

Effect of decisions under this Regulation and liability of holder of certificate thereunder.

21. No decision under this Regulation upon any question of right between any parties shall be held to bar the trial of the same question in any suit or in any other proceeding between the same parties, and nothing in this Regulation shall be construed to affect the liability of any person who may receive the whole or any part of any debt or security, or any interest or dividend on any security, to account therefor to the person lawfully entitled thereto.

Investiture of inferior Courts with jurisdiction of District Court for purposes of this Regulation

22. (1) The Government may, by notification in the official Gazette, invest any Court inferior in grade to a District Court with the functions of a District Court under this Regulation, and may cancel or vary any such notification.

(2) Any inferior Court so invested shall, within the local limits of its jurisdiction, have concurrent jurisdiction with the District Court in the exercise of all the powers conferred by this Regulation upon the District Court, and the provisions of this Regulation relating to the District Court shall apply to such an inferior Court as if it were a District Court:

Provided that an appeal from any such order of an inferior Court as is mentioned in sub-section (1) of section 18 shall lie to the District Court, and not to the Chief Court, and that the District Court may, if it thinks fit, by its order on the appeal, make any such declaration and direction as that sub-section authorises the Chief Court to make by its order on an appeal from an order of a District Court.

(3) An order of a District Court on an appeal from an order of an inferior Court under the last foregoing sub-section shall, subject to the provisions of Chapters XLVI and XLVII of the Code of Civil Procedure as applied by section 647 of that Code, be final.

(4) The District Court may withdraw any proceedings under this Regulation from an inferior Court and may either itself dispose of them or transfer them to another such Court established within the local limits of the jurisdiction of the District Court and having authority to dispose of the proceedings.

(5) A notification under sub-section (1) may specify any inferior Court specially or any class of such Courts in any local area.

(6) Any Civil Court which for any of the purposes of any enactment is subordinate to or subject to the control of, a District Court shall for the purposes of this section be deemed to be a Court inferior in grade to a District Court.

Surrender of superseded and invalid certificates.

23. (1) When a certificate under this Regulation has been superseded or is invalid from any of the causes mentioned in section 20, the holder thereof shall, on the requisition of the Court which granted it, deliver it up to that Court.

(2) If he wilfully and without reasonable cause omits so to deliver it up, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to three months, or with both.

SCHEDULE.

FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

(*See Section* 11.)

In the Court of

To *A. B.*

Whereas you applied on the day of for a certificate under the Succession Certificate Regulation, 1901, in respect of the following debts and securities, namely:—

Debts.

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for certificate.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	Description.			Market-value of security on date of application for certificate.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This certificate is accordingly granted to you and empowers you to collect those debts [*and*] [*to receive*] [*interest*] [*dividends*] [*on*] [*to negotiate*] [*to transfer*] [*those securities*].

Dated this day of

District Judge.

Schedule.

In the Court of

On the application of *A.B.* made to me on the day of , I hereby extend this certificate to the following debts and securities, namely:—

Debts.

Serial number.	Name of debtor.	Amount of debt, including interest on date of application for extension.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	Description.			Market-value of security on date of application for extension.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This extension empowers *A. B.* to collect those debts [*and*] [*to receive*] [*interest*] [*dividends*] [*on*] [*to negotiate*] [*to transfer*] [*those securities.*]

Dated this day of

District Judge